

# Court of Appeals, State of Michigan

## ORDER

Rouge Steel Co v Department of Treasury

Docket No. 295635

LC No. 00-315388

Donald S. Owens  
Presiding Judge

Stephen L. Borrello

Alton T. Davis  
Judges

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The motion for immediate consideration is GRANTED.

The motion to dismiss is GRANTED. Because it is undisputed that appellant is and will remain unable to collect any relevant use tax deficiency, this appeal is moot since “it presents only abstract questions of law that do not rest upon existing facts or rights.” *Ryan v Ryan*, 260 Mich App 315, 330; 677 NW2d 899 (2004), quoting *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998). Further, appellate consideration of this case is not appropriate under the principle that a moot issue may be reviewed if it is likely to recur but evade review. *Id.* First, this dispute over now repealed language in a prior version of the Michigan Use Tax Act does not appear likely to recur. However, even if it were likely to recur, unlike the time sensitive issue in *Socialist Workers Party v Secretary of State*, 412 Mich 571; 317 NW2d 1 (1982), disputes over tax liability are not likely to become moot on appeal because, regardless of the extent of delay, an appellate court could most likely provide meaningful relief by ordering a tax payment or refund, or declaring a lack of tax liability, as may be appropriate.

We further decline appellant’s request to vacate the Tax Tribunal decision in light of our dismissal of this appeal. Contrary to appellant’s indication, *Michigan Chiropractic Council v Comm’r of the Office of Financial & Ins Services*, 475 Mich 363; 716 NW2d 561 (2006), does not support a conclusion that we may vacate an administrative tribunal decision on the ground that a case was moot when it was considered by the administrative tribunal. Rather, that case involved, in relevant part, the authority of a higher court to vacate decisions of a lower court within the judicial branch of government.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 24 2010

Date

*Sandra Schultz Mengel*  
Chief Clerk